



Sen. Ira I. Silverstein

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1 AMENDMENT TO SENATE BILL 1046

2 AMENDMENT NO. _____. Amend Senate Bill 1046 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Guardianship and Advocacy Act is amended by
5 adding Section 33.5 as follows:

6 (20 ILCS 3955/33.5 new)

7 Sec. 33.5. Guardianship training program. The State
8 Guardian shall provide a training program that outlines the
9 duties and responsibilities of guardians appointed under
10 Article XIa of the Probate Act of 1975. The training program
11 shall be offered to courts at no cost, and shall outline the
12 responsibilities of guardians and the rights of disabled
13 persons in guardianships under Article XIa of the Probate Act
14 of 1975. In developing the training program content, the State
15 Guardian may consult with the courts, State and national
16 guardianship organizations, public guardians, advocacy

1 organizations, and persons and family members with direct
2 experience with adult guardianship.

3 Section 10. The Probate Act of 1975 is amended by changing
4 Sections 11a-5, 11a-21, 13-1, and 13-1.2 as follows:

5 (755 ILCS 5/11a-5) (from Ch. 110 1/2, par. 11a-5)

6 Sec. 11a-5. Who may act as guardian.

7 (a) A person is qualified to act as guardian of the person
8 and as guardian of the estate of a disabled person if the court
9 finds that the proposed guardian is capable of providing an
10 active and suitable program of guardianship for the disabled
11 person and that the proposed guardian:

12 (1) has attained the age of 18 years;

13 (2) is a resident of the United States;

14 (3) is not of unsound mind;

15 (4) is not an adjudged disabled person as defined in
16 this Act; ~~and~~

17 (5) has not been convicted of a felony, unless the
18 court finds appointment of the person convicted of a felony
19 to be in the disabled person's best interests, and as part
20 of the best interest determination, the court has
21 considered the nature of the offense, the date of offense,
22 and the evidence of the proposed guardian's
23 rehabilitation. No person shall be appointed who has been
24 convicted of a felony involving harm or threat to a minor

1 or an elderly or disabled person, including a felony sexual
2 offense; and -

3 (6) has completed a training program, developed by the
4 State Guardian in accordance with Section 33.5 of the
5 Guardianship and Advocacy Act or by another suitable
6 provider approved by the court, that outlines the
7 responsibilities of guardians and the rights of disabled
8 persons, and has been made available at no cost by the
9 court or another suitable provider approved by the court.

10 (b) Any public agency, or not-for-profit corporation found
11 capable by the court of providing an active and suitable
12 program of guardianship for the disabled person, taking into
13 consideration the nature of such person's disability and the
14 nature of such organization's services, may be appointed
15 guardian of the person or of the estate, or both, of the
16 disabled person. The court shall not appoint as guardian an
17 agency which is directly providing residential services to the
18 ward. One person or agency may be appointed guardian of the
19 person and another person or agency appointed guardian of the
20 estate.

21 (c) Any corporation qualified to accept and execute trusts
22 in this State may be appointed guardian of the estate of a
23 disabled person.

24 (d) Public guardians, state guardians, attorneys currently
25 authorized to practice law, and persons who are certified as
26 National Certified Guardians by the Center for Guardianship

1 Certification are exempt from the training requirement under
2 paragraph (6) of subsection (a) of this Section.

3 (Source: P.A. 98-120, eff. 1-1-14.)

4 (755 ILCS 5/11a-21) (from Ch. 110 1/2, par. 11a-21)

5 Sec. 11a-21. Hearing. (a) The court shall conduct a hearing
6 on a petition filed under Section 11a-20. The ward is entitled
7 to be represented by counsel, to demand a jury of 6 persons, to
8 present evidence and to confront and cross-examine all
9 witnesses. The court (1) may appoint counsel for the ward, if
10 the court finds that the interests of the ward will be best
11 served by the appointment and (2) shall appoint counsel upon
12 the ward's request or if the respondent takes a position
13 adverse to that of the guardian ad litem. The court may allow
14 the guardian ad litem and counsel for the ward reasonable
15 compensation.

16 (b) If the ward is unable to pay the fee of the guardian ad
17 litem or appointed counsel, or both, the court shall enter an
18 order upon the State to pay, from funds appropriated by the
19 General Assembly for that purpose, all such fees or such
20 amounts as the ward is unable to pay.

21 (c) Upon conclusion of the hearing, the court shall enter
22 an order setting forth the factual basis for its findings and
23 may: (1) dismiss the petition; (2) terminate the adjudication
24 of disability; (3) revoke the letters of guardianship of the
25 estate or person, or both; (4) modify the duties of the

1 guardian; ~~and~~ (5) require the guardian to complete a training
2 program as provided in subdivision (a)(6) of Section 11a-5 of
3 this Act; and (6) make any other order which the court deems
4 appropriate and in the interests of the ward.

5 (Source: P.A. 81-1509.)

6 (755 ILCS 5/13-1) (from Ch. 110 1/2, par. 13-1)

7 Sec. 13-1. Appointment and term of public administrator and
8 public guardian.) Except as provided in Section 13-1.1, before
9 the first Monday of December, 1977 and every 4 years
10 thereafter, and as often as vacancies occur, the Governor, by
11 and with the advice and consent of the Senate, shall appoint in
12 each county a suitable person to serve as public administrator
13 and a suitable person to serve as public guardian of the
14 county. The Governor may designate, without the advice and
15 consent of the Senate, the Office of State Guardian as an
16 interim public guardian to fill a vacancy in one or more
17 counties. When appointed as an interim public guardian, the
18 State Guardian will perform the powers and duties assigned
19 under the Guardianship and Advocacy Act. The Governor may
20 appoint the same person to serve as public guardian and public
21 administrator in one or more counties. In considering the
22 number of counties of service for any prospective public
23 guardian or public administrator the Governor may consider the
24 population of the county and the ability of the prospective
25 public guardian or public administrator to travel to multiple

1 counties and manage estates in multiple counties. Each person
2 so appointed holds his office for 4 years from the first Monday
3 of December, 1977 and every 4 years thereafter or until his
4 successor is appointed and qualified.

5 (Source: P.A. 96-752, eff. 1-1-10.)

6 (755 ILCS 5/13-1.2)

7 Sec. 13-1.2. Certification requirement. Each person
8 appointed as a public guardian by the Governor shall be
9 certified as a National Certified Guardian by the Center for
10 Guardianship Certification within 6 months after his or her
11 appointment. The Guardianship and Advocacy Commission shall
12 provide public guardians with information about certification
13 requirements and procedures for testing and certification
14 offered by ~~professional training opportunities and facilitate~~
15 ~~testing and certification opportunities at locations in~~
16 ~~Springfield and Chicago with~~ the Center for Guardianship
17 Certification. The cost of certification shall be considered an
18 expense connected with the operation of the public guardian's
19 office within the meaning of subsection (b) of Section 13-3.1
20 of this Article.

21 (Source: P.A. 96-752, eff. 1-1-10.)

22 Section 99. Effective date. This Act takes effect one year
23 after becoming law."